

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

MFA.No. 886 of 2002()

OPMV.261/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM

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APPELLANT: APPELLANT/PETITIONER

**SULAIMAN A., S/O.HUSSANAR,
AGED 46 YEARS, ATHIKAL HOUSE, MANNUR,
PALAKKAD TALUK, PALAKKAD DISTRICT.**

**BY ADV. SRI.O.P.NANDAKUMAR
SRI.V.A.AJAI KUMAR
SMT.T.THANKAM**

RESPONDENTS: RESPONDENTS

- 1. SRI.T.C.MICHAEL, S/O.C.K.THOMA, AGE NOT
KNOWN, CHALAKKAL HOUSE, PURANATTUKARA POST,
THRISSUR DISTRICT.**
- 2. MR.MANEESH KUMAR, S/O.SREEDHARAN NAIR,
AGE NOT KNOWN, SURESH BHAVAN, EZHAKKAD POST,
MUNDOOR, PALAKKAD.**
- 3. THE UNITED INDIA INSURANCE COMPANY
LIMITED, BRANCH OFFICE, HOSPITAL JUNCTION,
MANNARKKAD.**

BY ADV. SRI.R.S.KALKURA

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

tss

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.NO.886 OF 2002 ()

Dated this the 3rd day of December, 2007

J U D G M E N T

KOSHY,J.

Appellant, an agent of Milma Co-operative Society suffered serious injuries in a motor accident while he was travelling in a bicycle carrying milma milk. He claimed a compensation of Rs.1,50,000/-. Only Rs.19,200/- was awarded as compensation inclusive of repair charges of the cycle amounting to Rs.1,000/-. Only quantum of compensation is disputed in this appeal.

2. As far as the injuries are concerned, Ext.A5 wound certificate shows the following injuries:

“Patient was conscious oriented and was having pain left side of chest, pain left thigh, abrasion 4 x 4 cm sized on lateral aspect of right of scalp; contusion 2 x 1 cm sized on left scapular region of back contusion 3 x 1 cm sized on lateral aspect of

left hip. After X-ray it is noted as fracture left ribs 2nd, 3rd, 4th, 5th, 6th and 7th. X-ray shoulder clavicle (Lt) shows fracture clavicle (Lt). He was examined on 27.1.2000."

He was treated as inpatient for five days in the hospital. It shows that there was fracture of six ribs and fracture of clavicle bone as can be seen from the disability certificate. No compensation was awarded for disability or loss of earning power. Ext.A8 medical certificate shows that being a manual worker it will be difficult for a man to work because of the above fracture. But no percentage of disability was seen assessed. Considering the nature of injuries, we are of the opinion that at least Rs.5,000/- can be awarded for disability and loss of amenities and other difficulties due to disability. He has granted Rs.4,500/- for actual loss of wages as he was under treatment for three months. He was a milma agent and a milk vendor. He produced evidence to show that he was getting Rs.250/- per day. Being a milma agent, he is getting 30 days work. In any event, we take Rs.3,000/- as the monthly income. On the date of accident, he was travelling with milk worth Rs.1,200/-. We are of the opinion that he was an earning

member by hard work. He was maintaining his family. We fix Rs.3,000/- as the monthly income even though income of Rs.250/- per day cannot be accepted for lack of evidence. Thus for loss of wages for three months of treatment, Rs.9,000/- is granted. Tribunal has granted only Rs.4,500/-. Hence balance amount comes to Rs.4,500/-. Hence the total amount comes to Rs.9,500/- and the above amount of Rs.9,500/- should be deposited by the 3rd respondent Insurance company with 7.5% interest from the date of application till its deposit over and above the decreed amount by the tribunal. On deposit of the amount, appellant is allowed to withdraw the amount. With the above observations this appeal is allowed.

J.B.KOSHY, JUDGE

K.T.SANKARAN, JUDGE

prp

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.NO.886 OF 2002 ()

J U D G M E N T

3rd December, 2007